

Panaji, 25th July, 1996 (Savana 3, 1918)

SERIES II No. 17

OFFICIAL GAZETTE

GOVERNMENT OF GOA

NOTE: There are five Extraordinary and one Supplementary issues to the Official Gazette, Series II No. 16 dated 18-7-96 as follows:

- 1) Extraordinary dated 18-7-96 from pages 175 to 176 regarding Order from Department of Cooperation (Office of Collector, North Goa District).
- 2) Extraordinary No. 2 dated 19-7-96 from pages 177 to 178 regarding Notification from Dept. of General Administration.
- 3) Extraordinary No. 3 dated 19-7-96 from pages 179 to 180 regarding Notification from Dept. of General Administration.
- 4) Extraordinary No. 4 dated 19-7-96 from pages 181 to 184 regarding Notifications from Department of Revenue.
- 5) Supplement dated 23-7-96 from pages 185 to 186 regarding Notification from Dept. of Law & Judiciary (Law (Est.) Division).
- 6) Extraordinary No. 5 dated 24-7-96 from pages 187 to 188 regarding Notification from Dept. of General Administration.

GOVERNMENT OF GOA

Department of Labour

Order

No. 28/60/84-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order in the name of the Governor of Goa.

V. G. Manerkar, Under Secretary (Labour).

Panaji, 16th December, 1991.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(BEFORE SHRI M. A. DHAVAL, HON'BLE
PRESIDING OFFICER)

Ref. No. IT/2/85

Shri Ramesh R. Naik ... Workman/Party I

V/s

M/s Agrawal Minerals (Goa) Pvt. Ltd. ... Employer/Party II

Workman represented by Shri K. V. Nadkarni.

Employer represented by Shri P. K. Lele.

Panaji, Dated: 23-11-1991.

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) of Sec. 10 of the Industrial Disputes Act, 1947 the Government of Goa by its order No. 28/60/84-ILD dated 2nd January, 1985 has referred the following issue for adjudication by this tribunal.

"Whether the action of the employer, M/s Agrawal Minerals (Goa) Pvt. Limited, Margao, Salcete-Goa, in transferring the services

of Shri Ramesh R. Naik, Sr. Clerk w.e.f. 23-9-1983 from the Head Officer, Margao, Salcete-Goa, to Bimbol Mines is legal and justified.

If not, to what relief the workman is entitled to?"

2. On receipt of this reference a case at IT No. 2/85 was registered and notices were sent to the parties in pursuance of which they appeared and submitted their pleadings.

3. Party I-Shri Ramesh R. Naik (hereinafter called as the 'Workman'), has filed his statement of claim (Exb. 2) wherein he has averred as follows:

The workman was employed in the head office of Party II-M/s Agrawal Minerals (Goa) Private Limited, Margao, Goa (hereinafter called as the 'Employer-Company') w.e.f. 1-7-74. Thereafter in the year 1976 the workman was promoted to the post of Sr. Clerk and his grade etc. was changed. A copy of letter of promotion is annexed and marked at Exb. 'A'. It is the say of the workman that since 1974 till he was transferred to Mines he was working sincerely and that there was not even a single complaint or a memo or on adverse remark in his service records. However, it has been averred that since 1981 the company's financial position starting deteriorating mainly on account of mismanagement and the company could not even pay monthly salary and wages to its workmen. In order to bridge over the financial difficulties, the Officer of the Employer-company starting persuading or pressurising its employees to tender resignations. They were also threatened that in case they refused to resign they would be transferred to Mines at remote places. Pursuant to the above referred practices, the present workman was also called by the Directors of the Company by name. Shri G. N. Agrawal and Shri Krishnakumar Agrawal and his resignation was demanded. He also assured that in case if he tendered his resignation, he would be paid all his dues in lumpsum. However, the workman refused to bow down to the wishes of the Directors. Thereafter Shri K. N. Rao who is the Personnel Manager of the Company conveyed to the workman his threat that he would be transferred to Mines. After having found that the present Workman was not prepared to resign he was finally issued a letter of transfer dated 20-9-83 a copy of which is marked at Exb. 'B'. Immediately on receipt of this transfer order, the workman protested by his letter dated 22nd Sept., 1983 wherein he alleged that he was victimised and as a measure of harassment he was transferred to Mines. He therefore alleged that there was unfair labour practice in his transfer. In the letter of transfer, it was represented that the workman's transfer was necessitated on account of exigencies of work. However, it is the say of the workman that the Mines to which he was transferred was already closed by the employer from 1-9-83. It has been submitted that the workman was employed at the head office of the company and the terms and conditions as applicable to the workman at the head office were quite different from those applicable to the employees at the Mines in as much as the transfer amounted to change in service conditions. It has been also alleged that the Mines where the workman was transferred was already closed and hence his transfer amounted, to dis-continuance of his service. Hence it is prayed that the employer's action in transferring the services of the workman to Mines be held as null and void and the same should be set aside and he should be reinstated in the Head Office with full back wages and other incidental reliefs.

4. Party II-Employer-Company by his written statement at Exb. 3 resisted the workman's claim contenting interalia as follows:

That Party I is not a workman within the meaning of Section 2 (s) of the Industrial Disputes Act, and hence this Tribunal has no jurisdiction to adjudicate this dispute. There is no industrial dispute as such within the meaning of the provisions of the Industrial Disputes Act and hence the reference is null and void. Without prejudice to this preliminary objection it has been contended that the workman was given a letter of appointment dated 26th June, 1974 and as per the terms and conditions mentioned therein the workman was liable to be transferred at the sole discretion of the management from one section or one branch to another or from one establishment to other establishment either existing or that may be acquired in future as per the exigencies of work without any additional compensation. The workman had agreed and accepted the terms and conditions stated above and hence he was confirmed under a letter dated 1-7-74. It is denied that the workman's performance was quite satisfactory and that he had a clean service record. On the other hand, some instances have been quoted in para. 4 of the written statement, indicating the misbehavior or misconduct on the part of the workman. It is true that the Employer-Company had suffered financial losses due to the recession of mining industry. It is denied that the workman was threatened to resign and that he was transferred out of any malafide intentions. It is contended that due to the exigencies of work, the workman was required to be transferred to Bimbol Mines with a request to report to duty to Mr. P. B. Khaire who was working at Mines at the relevant time. It is admitted that there was some correspondence between the workman and the Employer-Company, but it is contended that the allegations made by the workman in his replies are far from truth. Finally, it is contended that although the Mining operations were stopped still the office in the said Mines was functioning at the relevant time where the services of the workman were required and hence it has been contended that the workman's transfer was fully justified. Hence it is prayed that the workman is not entitled to any relief, and his claim deserves to be dismissed with costs.

5. Party I-Workman again filed a rejoinder wherein he challenged all the contentions taken up by party II in its written statement and has adhered to his assertions made in the statement of claim at Exb. 2.

6. On these pleadings my learned predecessor Shri Renato Noronha found that no issues were required to be framed on the preliminary objections raised by the employer as the employer has not specified the facts which constituted the basis of its objection. Hence he found that no other issues besides those involved in the order of reference be framed (vide Exb. 5). In view of this state of affairs the only issue that calls for determination in this dispute is one which has been referred to by the Government and which has been reproduced in the opening paragraphs of this judgment which need no further repetition.

7. On considering the evidence led by the parties in this dispute and after having considered the elaborate submissions made by the learned advocates for both the sides, I record the following findings on the above referred issues.

FINDING :

1. In the affirmative, Party I is not entitled to any relief.

REASONS

Before proceeding to consider the rival contentions made by the parties to this dispute, I think it necessary to state in brief, some of the facts which are either admitted or which are otherwise taken as duly proved from the evidence on record. Now, evidence in this behalf consists of the oral as well as several documents produced by the parties. On behalf of the workman he has examined himself at Exb. 7 and he has also led the evidence of one of his colleagues by name Datta A. Naik at Exb. 21. On behalf of the employers company its attorney by

name Keniyalal Mandhania has been examined at Exb. 26 and besides two more witnesses namely Shri P. B. Khaire and Shri A. Prabhudessai have also been examined at Exb. 30 and Exb. 31. Now, it is a common ground that the workman Shri Ramesh Naik was appointed as a Clerk from 1-7-74. In 1976 he was promoted to the post of Sr. Clerk and was put in charge of Stores Section. Now, it is a common ground that the financial position of this company deteriorated and according to the workman the company was no in a position to pay monthly salaries to its workers. Hence, there was a move to retrench some of the workers or to transfer some of them to the sister concerns of Party II. On account of exigencies of time the present workman was transferred to the Mining section under a letter dated 22-9-83 which is marked at Exb. 8. The workman joined to his new posting and worked only for two days and thereafter he started protesting against his transfer order but it will have to be remembered that he never joined thereafter till this date. Thereafter he raised a dispute before the Asst. Labour commissioner which ended in failure and hence the Government was required to make a reference for adjudication of the workman's claim which is in substance to the effect that the transfer order in his case is not legal and valid and hence he has prayed that the same should be set aside. These are some of the established facts on the basis of which I would now advert myself to the several submissions made by the learned Advocates for both the sides.

8. Now, at the beginning of the arguments Shri P. K. Lele the learned representative for Party II-Company raised a preliminary objection which is in substance to the effect that the dispute raised by the present workman is of an individual character which does not assume the character of an industrial dispute which can be adjudicated by this Tribunal. To support his submission in this behalf he has placed reliance on some of the ruling to which a reference will have to be made in brief. He has referred to a ruling in the case of The Bombay Union of Journalists and others and the 'Hindu', Bombay and another reported in Supreme Court Labour Judgments at page 1769, than (2) - 1969 LAB IC page 151 (Goa Dock Labour Union and another v/s The Government of Union Territory of Goa, Daman and Diu and another), (3) 1988 LAB IC N.O.C. 50 (M/s. wings wear Pvt. Ltd., v/s its workman) and (4) 1970 LAB IC 574 (workman of Indian Express Newspaper Pvt. Ltd. v/s The Management of Indian Express Newspaper Pvt. Ltd.). However, at the outset it will have to be stated that the above referred submissions made by Shri Lele cannot possibly be accepted in view of a patent fact appearing in the record of this case. Now the record of this case reveals that after the parties filed their pleadings my learned predecessor (Dr. Renato Noronha) passed specific order at Exb. 5 on 7-6-85 stating therein "No issues are framed on the preliminary objections raised by the employer in its written statement, as the employer has not specified the facts which constitute the basis of its objections." In view of this clear order, I hold that Party II cannot be permitted to raise a preliminary objection which has been once rejected by my learned predecessor. Now, it has been urged by Shri Lele that the question of jurisdiction can be entertained at any stage of the proceedings. It is perfectly true. However, if the facts on the foundation of which an objection to the jurisdiction has been taken are specifically pleaded in the written statement, then alone a party can raise that objection which can be heard on the point of jurisdiction. However, when my learned predecessor in his order at Exb. 5 has indicated that the specific facts on the basis of which a preliminary objection was raised were not stated in the written statement, Party II cannot be allowed to raise a preliminary objection. Thus the defect pointed out by my learned predecessor in his order at Exb. 5 could have been remedied by Party II by amending his written statement specifying therein the facts constituting a preliminary objection. However this was not done at the appropriate time and at the fag end of this proceeding i.e. at the time of arguments submissions have been made for supporting the preliminary objections. Hence it has been rightly pointed out by Shri Nadkarni for the workman that Party II should not be allowed to canvass this point of jurisdiction. I, therefore support the submissions made by Shri Nadkarni and hold that in view of the previous order at Exb. 5 supported by the fact that no amendment was sought in the written statement, I hold that the preliminary objection raised by Shri Lele cannot possibly be entertained. I, therefore reject the same.

9. That takes me to consider the vital issue raised in this dispute. Now, the workman has challenged his order of transfer mainly on the ground that it was out of his harassment or so to say victimisation by the employer and secondly he was transferred to a place where there was no work for his job. Now, the workman's evidence at Exb. 7 discloses that he was first appointed by Party II on 1-7-74 and thereafter in the year 1976 he was promoted to the post of Sr. Clerk. It will also have to be remembered that as a Sr. Clerk he was put in charge of Stores Section. Now his promotion order can be found at Exb. 19 which has a considerable relevance in this case. It is at Exb. 19-E and dated 26th June 1974. It is 'appointment-cum-confirmation order'. In the first para. It has been stated that the workman's appointment is hereby confirmed w.e.f. 1-7-74. After having noted the scale of the post it has been stated that the other terms and conditions of service are as under. We are mostly concerned with the first condition which requires reproduction ad verbatim. It is thus:

"That you are liable to be transferred at the sole discretion of the Management from one Section or Branch to another and from one Establishment to other establishment either existing or that may be acquired in future, as per the exigencies of work without any additional compensation."

Term 3 has some relevance and it states thus:

"That you shall have to abide by the Rules and Regulations in force in the Company and those that will be made applicable from time to time."

10. Now, it is indeed needless to say the document at Exb. 19-E is a service contract between the parties and the parties are bound by the terms stated therein. In Exb. 19-E there is a specific condition to the effect that the workman would be liable to be transferred from one section or branch to another and from one establishment to other establishment either existing or which may be acquired in future as per the exigencies of work at the sole discretion of the management. Thus, regard being had to the above referred condition at Sr. No. 1 at Exb. 19-E it is really futile for the workman to raise a dispute in regard to his transfer in as much as his transfer was made on account of exigencies of time and to a sister concern where there was a need for the workman's services.

11. Now, as I have stated earlier since Exb. 19-E is a contract of service, Party I-Workman is bound by the explicit terms stated therein. This fact has also been admitted by the workman in his evidence at Exb. 7. In his cross examination, he has clearly admitted, "I was given a letter of confirmation... In it there is a clause regarding the transfer. As per that letter and the clause the company has a right to transfer me". Thus it is evident that the workman was fully aware of the terms and conditions of his services and one of the conditions stated therein was in substance to the effect that the employer had unfettered right to transfer the workman to any sister concern. Now, it has been urged that this transfer was made by way of harassment to the workman. The workman has also attempted to allege that after the financial position of the company deteriorated the Directors of the Company started demanding resignations from the employees. However, the present workman did not accede to the Director's wishes and hence he was transferred to a far off place. However, there is no cogent evidence to prove that the Directors exerted their pressure on some of the employees to resign. None of such workman who were forced to resign has been examined and hence it has been rightly pointed out by Shri Lele that there were no malafides in transferring the present workman. However, the transfer was necessitated on account of exigencies of time. Now, Shri Lele has relied upon some of the rulings of the Supreme Court as also the other High Courts to emphasise his submissions that the employer has an unfettered right to transfer a workman from one concern or department to another. In the case of Kunidan Sugar Mills and Ziauddin and others reported in Supreme Court Labour Judgments (Vol. VI) on page 3837, it has been observed by their lordships of the Supreme Court thus:

"An employer has no inherent right to transfer his employee to another place where he chooses to start a business subsequent

to the date of his employment in the absence of an express term of the contract of service or in the Standing orders that the latter should serve in any future concerns which the former might acquire or start."

12. Now, I have purposely underlined the above referred words which clearly go to show that the employer has no inherent right to transfer an employee if he starts new business subsequent to the date of any particular workman's appointment and secondly if there is no mention about transfer in the express term of contract of service. In the present case, it may be recalled that in Exb. 19 there is a clear term enabling the employer to transfer the workman to any other sister concern of Party II. It may also be recalled that the workman has in unequivocal terms admitted that in Exb. 19-E there is a clear term which empowers the employer to transfer the workman to any other sister concern. Then a reliance has been placed on a ruling in the case of Management of the Syndicate Bank Ltd., and the workman reported in Supreme Court Labour Judgments at page 3834 wherein the head note runs thus:

"Industrial Tribunals should be very careful before they interfere with the orders made by the Banks in discharge of their managerial functions. It is true that if an order of transfer is made mala fide or for some ulterior purpose, like punishing an employee for his trade union activities, the Industrial Tribunals should interfere and set aside such an order of transfer, because the mala fide exercise of power is not considered to be the legal exercise of the power given by law. But the finding of mala fide should be reached by Industrial Tribunals only if there is sufficient and proper evidence in support of the finding. Such a finding should not be reached capriciously or on flimsy grounds."

To the same effect are the observations in the case of Bareilly Electricity Supply Co. Ltd. and Sirajuddin and another reported in the same volume at page 3832. The head note runs thus:

"Transferring a cooly from one department to another is a matter of internal management and Industrial Tribunals should be very careful before they interfere with the orders made in the discharge of the management function in that behalf. The failure of the Company to give specific reason for the transfer is the sole reason for the finding of mala fides on the part of the Company. A finding of mala fides must be based on sufficient reliable evidence and ought not to be given lightly or in a casual manner. Hence, the order for reinstatement made by the Tribunal is patently unreasonable and is set aside."

13. Shri Lele has also relied upon a decision of Karnataka High Court reported in I-LJ (1986) page 464 (Shanmugam and Mysore Mineral Ltd). In that case the Petitioner was a Driver of the Respondent-Company. He was transferred from the Byrapura Chromite Mines in the district of Hassan to Jambhathianaballi Iron Ore Mines in Bellary district. He questioned the validity and the legality of the transfer in this writ petition, in which it has been held thus:

"The transfer of an employee from one department to another or from one place to another is part of the managerial powers of the employer. The burden of proving that the order was invalid rested on the workman. Closing of the working of the mines become inevitable when the ore deposits get exhausted and if transfer are not permitted, it would lead to retrenchment. Transfer become inevitable."

Lastly, a reliance has also been placed by Shri Lele on the decision of the Madras High Court reported in II LJ 1977 at page 199 in the case of Caravan Goods Carriers Pvt. Ltd., and Labour Court, Madras and another wherein in the head note it runs thus:

"Five workman (along with a sixth one) were in the employ of the petitioner-company. They were transferred on one and the same day. This formed the subject matter of an industrial dispute. The Labour Court set aside the orders of transfer. It is against this, the management has filed the writ petition."

Held, the approach of the Labour Court has been lay, rather than legal. The award enumerates the difficulties of workmen in securing accommodation in far off places, that they have to look after their families, that these transfers would add to the plight of the workman and that they would not be in a position to make both ends meet. This will be so in every case of transfer. All these can hardly be grounds for holding that the orders of transfer are actuated by mala fides.

These transfers might have been due to exigencies of the employer as contended by him and it was not for the Labour Court to sit in appeal over those exigencies and find out whether they demanded this course of action. The action of the employer could not be termed unfair. So long as the employer has got the power to transfer his employees, the power being inherent in the nature of employment as in this case, it does not matter whether the employer resorts to any standing order. Even if the employer had relied upon the standing order for the transfer while there was no standing order to that effect, the transfers would not become illegal on that score alone."

14. Thus, respectfully following the views expressed by their Lordships of the Apex Court as also of the other High Courts, I have come to an irresistible conclusion that Party II-Employer-Company had every right to transfer Party I on account of exigencies of time. Now, very significantly it will have to be observed that after the transfer order was issued on 20-9-83 vide Exb. 8 the workman protested against the said order by his reply dated 22nd Sept., 1983 which has been produced by the workman himself at Exb. 9-w. Very significantly in the 4th para. of this reply the workman has averred thus which needs reproduction in his own words. He has stated thus:

"There is no objection for transfer of my services for a far off place at Bimbol Mines, but unless and until my pending dues are cleared."

15. Now, in as much as the documents has been produced by the workman himself, it follows that he relies upon the same. However, the above referred statement made by the workman in his reply unmistakably leads to the only inference that initially, he had absolutely no objection to his transfer to a far off place at Bimbol Mines. However, his only grievance was non payment or delayed payment of his dues. However, it seems that subsequently, he seemed to have been advised for challenging his transfer. Thus, it is evident that is challenge to this transfer was an after thought; but initially his stand was that he had no objection for his transfer.

16. Now, it has been urged on behalf of the workman that there was no work at Bimbol Mines. Now, it has been brought on record that the Mining Operations at Bimbol had come to an end, some days prior to the transfer of this workman. However, the evidence on record unmistakably goes to show that although the mining operation had stopped still the Stores Section and the office at the site were not closed and the present workman was transferred to the stores Department. The evidence on record also discloses that even in the Head Office at Margao, he was serving in the Stores Section. The evidence further reveals that during his tenure at Head Office he had occasions to go to Bimbol Mines for inventory of the spare parts and machinery required for Mines. Now it at all the store department in the office attached to Mine was closed then the employer could have safely retrenched the present workman as his services were no more required. However, the very fact that he was transferred to Bimbol clearly leads to the only inference that his services were required in the Stores Department at the mine premises although the mine was closed. There were also some employees in the Stores Department at Bimbol and the employer has led the evidence of Kanan Lal who in his evidence at Exb. 26 has clearly stated that although the mine was not working still the workshop was going on. He has further stated that a necessity of a Clerk for issuing spare parts to the machinery and getting the spare parts was felt and so the workman was transferred there. Finally, he has also stated that workman was transferred there because formerly he was doing such work in the head office. While working in the head office he used to visit the Mines

for the purpose of checking. Then, there is the evidence of Shri P. B. Khaire at Exb. 30. He was the Head of the Stores Department at Bimbol to whom the present workman was supposed to report after his transfer. Accordingly, the workman went and reported to Mr. Khaire. However, according to Mr. Khaire he worked only for 2 days and then left. His evidence also discloses that there were about 15 to 16 co-workers who were working in the workshop although the mine was closed. He has also stated that while the present workman was in the head Office he occasionally used to visit Bimbol Mines for checking stores inventory. To the same effect there is the evidence of Shri A. Prabhu Dessai at Exb. 31. He has stated that although the working at the mine had stopped in August or Sept. 1983, the Garage of the mine was working. He has also stated that 15 to 16 persons were then working in the workshop and they were working as Mechanics, Helpers who used to look after the maintenance and repairs of the mining machines. Over and above, the workman himself in his evidence at Exb. 7 has unequivocally admitted thus "It is true that the mining machinery was on the site at the mine though the mine was closed and the machinery was idle." In view of this cogent and convincing evidence there can be absolutely no doubt to arrive at a conclusion that although the mine operations at Bimbol had stopped, still the stores and workshop were not closed and hence the present workman was transferred to that concern. There was also no change of duty as far as the present workman is concerned because while he was posted in the head office he used to do the same job which was supposed to perform at bimbol. It has been urged by Shri Nadkarni that there is no documentary evidence to prove that 15 to 16 workman were serving in the workshop. However, the first witness examined by the employer has produced a pay sheet at Exb. 27 (E) which shows the names of the persons who were serving in Sept., 1983. Now the muster rolls and other documents called for by party I could not have been produced by this witness because he could not trace them. Relying on this commission it has been urged by Shri Nadkarni that an adverse inference should be drawn against witness No. 1 of the employer. However, I am not impressed by this submission mainly because the oral assertions made by as many as 3 witnesses clearly go to show that the stores of the workshop at Bimbol Mines was then working when the workman was transferred. At the case of repetition, I would say that if there was no establishment at Bimbol Mines where the present workman could have been accommodated, then there was absolutely no legal difficulty for the employer to discharge or terminate the services of the workman if they were found to be in excess. However, this was not done and on the other hand since there was an employment at Bimbol, the present workman was transferred. Thus, there was no change of duties in the workman's services. Secondly, it will have to be born in mind that there is a very cogent evidence to prove that although the workman was transferred to Bimbol Mines, still there was no reduction in his emoluments. On the contrary he was to get more emoluments on account of V. D. A. this fact has been admitted by the workman in his cross examination by admitting thus: "A Sr. Clerk working on the Mine site was getting higher salary than the Sr. Clerk working in the office". Thus, the workman himself has admitted that in his transfer he would have got more emoluments than what he was earning by his posting at the Head Office. A grievance was also made by the workman that there was no accommodation or transport facilities etc. However, the workman himself in his cross examination as admitted that there are staff quarters of the Company on the Mine site. They were vacant and if the workman had requested the employer to allot him a Quarter then I think there was no difficulty for the employer to accommodate him in some of the Quarter, which were kept under lock when the workman went to resume his duties. Now, as observed by their lordship of the Madras High Court in the case of Caravan Goods, Carriers Pvt. Ltd. (Supra) the difficulty of the workman in securing accommodation in far off place, that they have to look after their families and that this transfer would add to the plight of the workman and that they would not be in a position to make both ends meet, can hardly be grounds for holding that the orders of transfer are actuated by mala fides. I, therefore hold that there is no substance in the workman's allegation that there was no work for him at the Bimbol Mines and that there were several other difficulties and hence he did not continue after having joined and worked for 2 days.

25TH JULY, 1996-

17. Thus, after having scrutinised the evidence led by both the parties and after anxiously considering the several submissions made by the learned advocates for both the sides, I have come to an irresistible conclusion that the action of the employer M/s Agrawal Minerals (Goa) Pvt. Ltd., in transferring the services of Shri Ramesh Naik, Sr. Clerk with effect from 23-9-83 from the Head Office to Bimbof Mines is perfectly legal and justified and hence he is not entitled to any relief whatsoever. I, therefore answer the issue referred to by the Government accordingly and pass the following order.

ORDER

It is hereby declared that the action of the Employer-M/s Agrawal Minerals (Goa) Private Limited, Margao, Salcete Goa, in transferring the services of Shri Ramesh R. Naik, Sr. Clerk w. e. f. 23-9-1983 from the Head Office, Margao, Salcete Goa, to Binibol Mines is perfectly legal and justified and hence Party I-Workman is not entitled to any relief whatsoever.

No order as to costs. The Government be informed of this award.

Sd/-
(M. A. Dhavale)
Presiding Officer
Industrial Tribunal.

Department of Public Health

Order

No. 8-33-87-IV/PHD

On the recommendation of Goa Public Service Commission vide their letter No. COM/II/12/14(1)/95 dated 31-10-1995, Government is pleased to confirm Dr. Meena A. Aras against the post of Assistant Professor in Prosthetic Dentistry Group 'A' Gazetted in Goa Dental College & Hospital, Bambolim with immediate effect.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 6th December, 1995.

Order

No. 8/27/94-II/PHD

Government is pleased to accept the resignation tendered by Dr. (Mrs.) Fatima Maria De Souza, Assistant Lecturer in Anatomy, Goa Medical College with effect from 2-5-1995.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 6th December, 1995.

Order

No. 8/48/91-IV/PHD

On the recommendation of Goa Public Service Commission vide their letter No. COM/II/12/14(3)/95 dated 31-10-1995, Government is pleased

to confirm Dr. Anita E. Spadigam against the post of Lecturer in Oral Pathology present working as Assistant Professor in Oral Pathology Group 'A' Gazetted in Goa Dental College & Hospital with immediate effect.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 6th December, 1995.

Order

No. 8-31-88-IV/PHD

On the recommendation of the Goa Public Service Commission vide their letter No. COM/II/12/14(4)/95 dated 31-10-1995, Government is pleased to confirm Dr. Ida de Noronha de Ataide against the post of Assistant Professor in Operative Dentistry Group 'A' Gazetted in Goa Dental College & Hospital with immediate effect.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 6th December, 1995.

Order

No. 8/12/95-II/PHD

Read : Memorandum No. 8/12/95-II/PHD dated 8/12/1995.

On the recommendation of Goa Public Service Commission vide letter No. COM/II/5/30(12)/90 dated 11-7-1995, Government is pleased to appoint Dr. Sandesh N. Chodankar to the post of Lecturer in ENT in Goa Medical College on temporary basis on an initial pay of Rs. 3,000/- p. m. in the scale of pay of Rs. 3000-100-3500-125-5000 plus NPA with immediate effect as per terms and conditions contained in the Memorandum No. 8/12/95-II/PHD dated 8-12-1995.

Dr. Sandesh N. Chodankar will be on probation for a period of 2 years. The appointment is made against vacant post of Lecturer in ENT.

The appointment is made pending verification of his character and antecedents. He is medically examined and found fit for the post.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 15th December, 1995.

Order

No. 7/11/87-I/PHD/Vol. II/P. F. (1)

On the recommendation of the Goa Public Service Commission as contained in their letter No. COM/II/11/24(2)/90 dated 17-10-95. Government is pleased to promote the following officers of the Directorate of Health Services on regular basis to the post of Health

Officer or post of equal grade under the Directorate of Health Services with effect from the date indicated against their names:-

Sr. No.	Name of the officer	Date from which regular promotion is made.
1.	2.	3.
1.	Dr. Carlos A. G. Pinto	1-1-90
2.	Dr. Jose J. de Carmo Flores	1-6-90
3.	Dr. H. V. F. Dessai	1-9-90
4.	Dr. Emerico D'Souza	1-4-91
5.	Dr. Pundalik Hegde Dessai	1-6-91
6.	Dr. Umesh S. Panandikar	1-11-91
7.	Dr. N. V. X. Raikar	1-2-93
8.	Dr. K. N. Sansgiri	1-4-94
9.	Dr. (Smt.) K. Bharati Vijayan	1-3-95
10.	Dr. Prakash Kanekar	1-3-95
11.	Dr. Shrikant P. Shirgaonkar	1-4-95
12.	Dr. Luis Caitano Jose F.P. Melo	1-6-95
13.	Dr. Jeremy Joseph Dias	1-8-95

The Officers from Sr. No. 8 to 13 shall be on probation for a period of two years.

The Officers indicated above shall continue to hold the respective post presently held by them until further orders except the officers at Sr. No. 1, 2 & 10 and their posting order is being issued separately. Till such time they may continue to work where they are working presently.

By order and in the name of the Governor of Goa.

Celina Dias e Caldeira, Under Secretary (Health).

Panaji, 3rd November, 1995.

Order

No. 5/22/85-PHD

On the recommendation of the Goa Public Service Commission vide letter No. COM/II/11/30 (4)/93 dated 18-10-95, the Government is pleased to promote Dr. (Mrs) Abhaya S. Borkar, Assistant Professor of Physiology to the post of Associate Professor of Physiology, Goa Medical College on regular basis in the pay scale of Rs. 3000-100-3500-125-5000 plus Spl. pay of Rs. 200/- per month with immediate effect.

By order and in the name of the Governor of Goa.

Celina Dias e Caldeira, Under Secretary (Health).

Panaji, 3rd November, 1995.

Order

No. 8/56/94-II/PHD

In pursuance of sub rule (1) of Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965, I, J. K. Dadoo, Secretary (Health) hereby give notice to Dr. P. V. Dessai, Assistant Professor of Cardiology in Goa Medical College that his services shall stand terminated with effect from the date of expiry of one month from the date on which this notice is served on him. I further direct that this notice is given without prejudice to the Government's right to take suitable decision about his period of unauthorised absence from duty.

By order and in the name of the Governor of Goa.

J. K. Dadoo, Secretary (Health).

Panaji, 3rd November, 1995.

Order

No. 5/14/83-I/PHD

Government is pleased to declare that Dr. (Smt.) Olive Moraes, Sr. Ophthalmic surgeon under the Directorate of Health Services has satisfactorily completed the probation period of two years from 22-5-92 to 21-5-94.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 7th November, 1995.

Order

No. 8/192/87-I/PHD

Government is pleased to declare that Dr. Dattaram Shet Gaonkar, Medical Officer under the Directorate of Health Services has satisfactorily completed the probation period of two years from 9-1-91 to 8-1-93.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 7th November, 1995.

Order

No. 5/36/82-I/PHD

Government is pleased to declare that Dr. Suresh V. Mahale, Medical Officer under the Directorate of Health Services has satisfactorily completed the probation period of two years from 9-1-91 to 8-1-93.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 7th November, 1995.

Order

No. 5/9/84-I/PHD

Government is pleased to declare that Dr. Basavaraj C. Patil, Medical Officer under the Directorate of Health Services has satisfactorily completed the probation period of two years from 9-1-91 to 8-1-93.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 7th November, 1995.

Order

No. 8/86/91-I/PHD

Government is pleased to declare that Dr. Wilfred D. S. Miranda, Medical Officer under the Directorate of Health Services has satisfactorily completed the probation period of two years from 9-1-91 to 8-1-93.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 7th November, 1995.

Order

No. 7/13/88-I/PHD/Vol. II

- Read: 1. Order No. 7/13/88-I/PHD/Vol. II dated 6-1-95.
2. Order No. 7/13/88-I/PHD/Vol. II dated 6-1-95.

Appointment and subsequent posting of Dr. Dhanesh Tulsidas Volvoikar at Sr. No.3 vide Government order of even number dated 6-1-95 against the post of Medical Officer under the Directorate of Health Services are hereby cancelled.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 8th November, 1995.

Order

No. 5/20/84-PHD

- Read:- (i) Government order No. 9-10-92/PER-Part dated 20-2-1995.
(ii) Government Notification No. 9-10-92/PER dated 12-6-1995.
(iii) Government Order No. 5/20/84-PHD dated 19-10-1995.

On the recommendation of the Goa Public Service Commission vide their letter No. COM/15/35(2)/90 dated 31-10-1995, Government is pleased to appoint Dr. Bramhanand S. Cuncoliencar, Assistant Medical Officer, Institute of Psychiatry and Human Behaviour, Altinho, Panaji rendered surplus vide Personnel Department's Order No. 9-10-92/PER-Part dated 20-2-1995 against the downgraded post of Medical Superintendent in the pay scale of Rs. 2200-75-2800-EB-100-4000 vide Government Order No. 5/20/84-PHD dated 19-10-1995 with immediate effect.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 9th November, 1995.

Order

No. 7/3/91-I/PHD

On the recommendation of Goa Public Service Commission vide their letter No. COM/15/56(4)/91 dated 11-9-95 Smt. Medha Anant Dessai is appointed to the post of Drugs Inspector under the Directorate of Food and Drugs Administration with immediate effect in the pay scale of Rs. 2000-60-2300-EB-75-3200-100-3500 on the terms and conditions contained in Memorandum of even number dated 24-10-95.

Smt. Dessai will be on probation for a period of two years.

The appointment is subject to the verification of character and antecedents. She has been declared medically fit by the Medical Board.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 15th November, 1995.

Order

No. 13/9/95-I/PHD(2)

Consequent upon closure of Public Health Laboratory in the Directorate of Health Services the post of Medical Officer attached to it is hereby transferred to the Urban Health Centre Panaji. The incumbent of the post shall draw salary from the same Budget Head from which it was drawn prior to the transfer of the post.

The incumbent of the post shall continue to work at Raj Bhavan under the V.V.I.P. cell until further orders.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 15th November, 1995.

Order

No. 13/9/95-I/PHD(3)

Consequent upon closure of the Public Health Laboratory in the Directorate of Health Services, the post of Chief Medical Officer attached to it is hereby transferred and attached to the National Programme for Control of Blindness and Ophthalmic Cell in the Directorate of Health Services, Panaji. The Incumbent of the post shall draw his salary from the Budget Head as was drawn before the transfer of the post.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 15th November, 1995.

Order

No. 7/7/90-I/PHD

Read:- Order No. 7/7/90-I/PHD dated 28-7-94.

The appointment of Shri Agnelo Fernandes as State Mass Education and Media Officer under Directorate of Health Services is extended for a further period of one year w.e.f. 30-9-95 on the terms and conditions as formulated by the Personnel Department, Secretariat, Panaji under their office Memorandum No. 13/4/79/PER dated 10-10-90.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 27th November, 1995.

Order

No. 8/11/87-I/PHD

Read: Order No. 1) 8/11/87-I/PHD dated 21-7-92.
2) 8/11/87-I/PHD dated 29-8-94.

In supersession of the above referred orders Government is pleased to accept the notice of voluntary retirement given by Dr. Julio P.X.B. Ferraó, Medical Officer of Directorate of Health Services and

consequently Dr. Ferrao stands voluntarily retired from service from 14-9-90 A. N. in relaxation to Rule 48-A of C. C. S. Pension Rules 1972.

Any overpayment made to him on account of sanctioning of leave beyond 15-9-90 may be recovered from his gratuity.

This issues with the concurrence of Finance Department vide their U.O. No. FS/4486/F dated 20-9-95.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 28th November, 1995.

Order

No. 8/82/91-I/PHD

Government is pleased to declare that Dr. Martina Fernandes, Medical Officer under the Directorate of Health Services has satisfactorily completed the probation period of two years from 11-5-92 to 6-5-94.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 4th December, 1995.

Order

No. 7/8/90-I/PHD

Read:- 1. Order No. 7/8/90-I/PHD (2) dated 3-5-95.
2. Order No. 7/8/90-I/PHD (3) dated 3-5-95.

The ad hoc appointment of the below mentioned Sr. Paediatrician under the Directorate of Health Services, Panaji made vide orders mentioned above is extended for a further period of six months i.e. upto 31-5-96.

Sr. No.	Name of the Officer
1.	Dr. Shripad J. Porob, Sr. Paediatrician, Primary Health Centre, Pernem.
2.	Dr. (Smt.) Ira Almeida, Sr. Paediatrician, Hospicio Hospital, Margao.

This has the concurrence of the Goa Public Service Commission vide their letter No. COM/II/11/24 (2)/92 dated 14-11-95.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 5th December, 1995.

Order

No. 7/17/91-I/PHD

Read:- Government order 7/17/91-I/PHD dated 27-7-94.

The appointment of Smt. Maria Augusta Machado as Clinical Instructor under the Directorate of Health Services is extended for a further period of one year w.e.f. 6-10-95 on the terms and conditions as formulated by the Personnel Department, Secretariat, Panaji under their office Memorandum No. 13/4/79/PER dated 10-10-90.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 5th December, 1995.

Order

No. 8-26-91-IV/PHD

On the recommendation of the Goa Public Service Commission vide their letter No. COM/II/12/14(2)/95 dated 31-10-1995, Government is pleased to confirm Dr. Jyoti R. Rao against the post of Lecturer in Periodontia presently working as Assistant Professor in Periodontia Group 'A' Gazetted in Goa Dental College & Hospital, Bambolim with immediate effect.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 5th December, 1995.

Corrigendum

No. 8/8/91-I/PHD

Read : Order No. 8/8/91-I/PHD dated 4-3-93

Words viz. "Immediate effect" appeared in the Government order No. 8/8/91-I/PHD dated 4-3-93 may be substituted to read as on 31-12-92 (A.N.).

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Health).

Panaji, 4th December, 1995.